

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-60
SENATE BILL 1397

AN ACT TO AUTHORIZE THE COUNTY OF DURHAM TO ALLOW FEES FOR STORMWATER MAINTENANCE, REPAIR, AND IMPROVEMENTS ON PRIVATE PROPERTY TO BE PAID OVER TIME AND BECOME A LIEN ON REAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-277 reads as rewritten:

"§ 153A-277. Authority to fix and enforce rates.

(a) A county may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished by a public enterprise. Schedules of rents, rates, fees, charges, and penalties may vary for the same class of service in different areas of the county and may vary according to classes of service, and different schedules may be adopted for services provided outside of the county. A county may include a fee relating to subsurface discharge wastewater management systems and services on the property tax bill for the real property where the system for which the fee is imposed is located.

(a1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for structural and natural stormwater and drainage systems under this section, the board of commissioners shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing. The hearing may be held concurrently with the public hearing on the proposed budget ordinance.

The fees established under this subsection must be made applicable throughout the area of the county outside municipalities. Schedules of rates, fees, charges, and penalties for providing structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this subsection may not exceed the county's cost of providing a stormwater and drainage system.

No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate structural and natural stormwater and drainage system services in the same area within a county. However, two or more units

of local government may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a single structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee for the service within the joint service area. For purposes of this subsection, a unit of local government shall include a regional authority providing structural and natural stormwater and drainage system services.

A county may by ordinance provide that funds collected from stormwater fees may be used to participate in the cost of repairs, improvements, and maintenance to the stormwater system on private property within the county. Upon written request by the property owner, a county may by ordinance allow the private share of the costs to be paid over a period of time fixed by the board of commissioners, not to exceed 10 years, with interest not to exceed nine percent (9%) per annum. The unpaid portion owed the county by the property owner shall become a lien on the real property and may be collected in accordance with the procedures provided in Article 26 of Chapter 105 of the General Statutes for collection of delinquent county real property taxes. Any such lien shall have the same priority as a lien for a special assessment as provided in G.S. 153A-200(c).

(b) A county may collect delinquent accounts by any remedy provided by law for collecting and enforcing private debts, and may specify by ordinance the order in which partial payments are to be applied among the various enterprise services covered by a bill for the services. A county may also discontinue service to a customer whose account remains delinquent for more than 10 days. If a delinquent customer is not the owner of the premises to which the services are delivered, the payment of the delinquent account may not be required before providing services at the request of a new and different tenant or occupant of the premises. If water or sewer services are discontinued for delinquency, it is unlawful for a person other than a duly authorized agent or employee of the county to reconnect the premises to the water or sewer system.

(c) Rents, rates, fees, charges, and penalties for enterprisory services are in no case a lien upon the property or premises served and, except as provided in subsection (d) of this section, are legal obligations of the person contracting for them, provided that no contract shall be necessary in the case of structural and natural stormwater and drainage systems.

(d) Rents, rates, fees, charges, and penalties for enterprisory services are legal obligations of the owner of the property or premises served when:

- (1) The property or premises is leased or rented to more than one tenant and services rendered to more than one tenant are measured by the same meter; or
- (2) Charges made for use of a sewerage system are billed separately from charges made for the use of a water distribution system."

Section 2. This act applies to Durham County only.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of July, 1998.

s/ Dennis A. Wicker

President of the Senate

s/ Harold J. Brubaker

Speaker of the House of Representatives